



**REQUEST FOR PROPOSALS**  
by  
**CITY OF ASHEVILLE, NC**

***Comprehensive User Fee Study***

10/01/2010

## Table of Contents

1.0 Purpose .....	3
2.0 Background Information.....	3
3.0 Scope of the Request for Proposal	
3.1 Comprehensive User Fee Study.....	4
4.0 Qualifications .....	5
5.0 Project Schedule.....	5
6.0 Required Information	
6.1 Transmittal Letter.....	6
6.2 Company Information .....	6
6.3 Project Schedule and Resources.....	6
6.4 Company Expertise .....	6
6.5 Client References.....	6
6.6 Pricing .....	7
6.7 Compensation Plan.....	7
6.8 Contract Provisions .....	7
7.0 Selection Procedure	
7.1 Proposal Package	
7.1.1 Content.....	7
7.1.2 Format.....	8
7.1.3 Number .....	8
7.1.4 Form.....	8
7.1.5 Delivery Address .....	8
7.1.6 Deadline .....	9
7.2 RFP Revisions .....	9
7.3 Evaluation Process .....	9
7.4 Evaluation Criteria .....	11
7.5 Qualification.....	11
7.6 Questions.....	11
7.7 Discussions and Right to Reject Proposals.....	11
8.0 Incurring Costs.....	12
9.0 Disposition of Proposals and Ownership of Data	
9.1 Disposition of Proposals .....	12
9.2 Ownership of Data.....	12
10.0 Signatures and Declarations.....	12

## **1.0 PURPOSE**

The City of Asheville is requesting proposals from qualified firms for a Comprehensive User Fee Study. In addition, the vendor is to provide a mechanism on how to review and revise the user fees as necessary. The objective is to ensure that the City of Asheville is utilizing comprehensive overhead rates and accurately accounting for the true cost of providing various services within the City's operations.

## **2.0 BACKGROUND INFORMATION**

The City of Asheville, located in Western North Carolina, was incorporated in 1797. It is the county seat for Buncombe County, centered in the heart of the Blue Ridge Mountains and known for its rich history and natural beauty. Asheville serves as the regional hub for business, health and human services, the arts, shopping, dining and other community amenities for citizens and visitors alike.

The City of Asheville's adopted total operating budget for Fiscal Year 2010-2011 is \$136,095,766. The City provides a broad range of services, including public safety; water; construction and maintenance of streets, roads and infrastructure; planning and zoning; parks and recreation; and general administrative and support services.

The City of Asheville maintains a program of user fees in many departments in order to offset the cost of providing services to the public. User fees are a common means to relieve the property tax burden while maintaining essential and valuable services. User fees are generally charged for public services that are not used by all citizens. That allows those services to be paid for by those that need and utilize them. The city analyzes these fees annually and an updated schedule is considered by Asheville's City Council during its budget process (typically between March and June).

## **3.0 SCOPE OF THE REQUEST FOR PROPOSAL**

The Request for Proposal (RFP) is a tool used in the planned procurement action to acquire the desired services and/or products. Firms responding to this RFP shall be prepared to deliver the products and perform the services necessary to provide a Comprehensive User Fee Study within ninety (90) days of the issuance of a contract.

### 3.1 Scope of Services Required – Comprehensive User Fee Study

The consultant shall conduct a comprehensive review of the City's user fee and rate structure with the goal of establishing a consistent and objectively-based user fee and rate structure that meets the needs of the City and its citizens. Specific experience within municipal government is most desirable.

A review of the documentation supporting the current fee structure for all General Fund departments and services is necessary. Furthermore, in utilizing the Overhead Cost Allocation Model of the City, calculation of the costs of providing current levels of City services is required as part of the project. A survey comparison of fees with similar and neighboring cities (for information only) is also requested.

Additionally, it should be able to identify and describe each City service for which a fee is charged or could possibly be charged. It should also determine the unit for the service provided as well as the number of units provided in FY 2010 and projected for fiscal year 2011.

It should be able to compile data for the purpose of developing total costs, both direct and indirect, associated with each fee area included in the study; to calculate the actual cost of services delivered on a per unit basis (data should be arrayed in a format that allows for the continuation of a user fee study); to develop user fee recommendations designed to recover the full cost of the service as well as options that recover less than full cost; to identify user subsidies of fee waivers where applicable; to also identify any factors that prevent the implementation of full cost recovery for specific fees, where applicable; to provide a rationale for changes in the current fee structure; to project revenue increases that will occur if the study recommendations or options are implemented; to analyze the demand for each program services area, particularly for those areas where a user charge has never been imposed and assess the effect prices might have on the demand for a service; to provide a list of recommendations as to the level and structure of fees that the City should charge considering the following factors: public policy, legislative issues, and 'best practices' type fee levels in comparable cities; and last but not least, to provide the best approach and potential cost for annually updating the fee schedule and structures.

The review and recommendations as to each fee category should include an analysis of compliance with applicable North Carolina law.

The final objective should be to prepare a draft Comprehensive User Fee Study and participate in the presentation to select City staff and City Council members. It will then gather and properly document comments

and concerns from staff and Council members. The study and related fee schedules created shall be made available to the City electronically for ease of updating the information in the future.

#### **4.0 QUALIFICATIONS**

- 4.1 The qualified firm shall have extensive experience developing comprehensive user fee studies for agencies of similar size and range of services as the City of Asheville.
- 4.2 The qualified firm must be properly licensed, staffed, equipped, and financed to perform the work relevant to a project of this nature.
- 4.3 The qualified firm shall have proven methodologies for the collection and analysis of cost data relevant to a project of this nature and for the conversion of the data to the studies specified in this RFP.
- 4.4 The qualified firm shall provide information on the scope of work for three projects performed by the firm for local governments involving user fee studies completed within the last two years. It should include the project name, location, contact person's name, address and telephone number, and the date stated and completed.
- 4.5 The qualified firm shall also provide a copy of one of their most recent reports for a project in similar scope.

#### **5.0 PROJECT SCHEDULE**

The major events within the selection process for determining the Comprehensive User Fee Study vendor are outlined below. An approximate schedule of these events is as follows:

	<u><b>Event</b></u>	<u><b>Schedule</b></u>
1.	Send a request for proposal to potential firms indicating our requirements.	10/01/2010
2.	Receive responses no later than 4:00 p.m. (PST). No postmarks accepted.	10/29/2010
3.	Evaluation Period.	11/19/2010
4	Presentation to City Council for approval.	TBD
5	Begin project.	TBD

6	Complete Comprehensive User Fee Plan.	90 days after contract executed
7	City Council Workshop	TBD
8	City Council Public Hearing	TBD

## 6.0 REQUIRED INFORMATION

### 6.1 Transmittal Letter

A signed letter of transmittal briefly stating the responding firm's understanding of the work to be done, the commitment to perform the work within the time period, a statement indicating why the responding firm believes itself to be the best qualified to perform the engagement and a statement that the Proposal is a solid and irrevocable offer for 90 days.

### 6.2 Company Information

6.2.1 Provide the name, address, phone number, fax number, and e-mail address of the firm's contact person for this Request for Proposal.

6.2.2 Provide a description of the firm, including the size (number of employees), number of years in business and areas of specialization.

### 6.3 Project Schedule and Resources

Provide a schedule that includes resources (both City employees and vendor employees), requirements, step-by-step work plan of all activities involved in the conduct of the work, and time lines for those steps.

### 6.4 Company Expertise

6.4.1 Describe the firm's qualifications to provide the scope of work as outlined in 3.1. Include recent projects of a similar nature.

6.4.2 Provide the background and experience of professional staff to be employed in this engagement. Specify who the Project Manager (lead person) will be for the project. Describe projects of a similar nature in which they had "hands on" responsibility.

6.4.3 Describe the firm's experience in providing knowledge transfer of plan/study components and rate models to agency personnel.

### 6.5 Client References

6.5.1 Provide the names, titles, addresses, and telephone numbers of a contact person for at least three references. It is preferred that this

list includes organizations for which the firm has performed similar services as outlined in this RFP. It is preferred that this list include municipalities of the approximate size of the City of Asheville.

- 6.5.2 Provide a complete listing of all North Carolina Municipal agency clients.

## 6.6 Pricing

- 6.6.1 Provide a detailed pricing breakdown of the major project tasks to provide the City's desired solution. Include a "not to exceed" contract amount.

- 6.6.2 Provide pricing associated with training for City staff for future updates to the User Fee Study.

- 6.6.3 Provide any other pricing for services not identified in sections 6.6.1 and 6.6.2.

- 6.6.4 Provide hourly rate sheets.

## 6.7 Compensation Plan

Describe how the firm would propose to be compensated for its services should the City decide to move ahead with a procurement action for the proposed solution on the basis of fees and/or time and expenses.

## 6.8 Contract Provisions

A sample of the City's Agreement for Consultant Services is attached as Exhibit A. Any exceptions to the terms in Exhibit A shall be set forth in the proposal or the proposing firm shall be deemed to have accepted those terms.

# 7.0 **SELECTION PROCEDURE**

## 7.1 Proposal Package

Each firm shall submit a written proposal package, which shall include the items requested below. Failure to include any of the required information listed below may disqualify this RFP.

### 7.1.1 Content

Each section of your response should be clearly defined and separated from the others. Each section of the response should

clearly match the number schema of this RFP. For example, response to item number 6.4.1 should be clearly labeled: 6.4.1.

7.1.1.1 Describe the firm's general approach to accomplishing the tasks described in Item 3.0, Scope of the Request for Proposal. If the firm cannot perform one or more of the tasks indicated, describe how it will accommodate such a deviation successfully.

7.1.1.2 Describe the firm's qualifications as described in Item 4.0, Qualifications.

7.1.1.3 Provide the information required in Item 6.0, Required Information.

7.1.1.4 Provide any additional comments or statements that will assist in the evaluation of the firm's information.

7.1.1.5 Provide a vendor contact name, address, phone number, fax number and e-mail address.

#### 7.1.2 Format

It is preferred that the basic proposal be submitted in standard 8 ½ by 11-inch page format. Attachments or enclosures may vary in size as necessary. Each response must be clearly numbered and match the RFP item number schema, i.e., 6.4.1.

#### 7.1.3 Number

Please submit **five (5)** bound copies of the proposal document for review and one unbound copy.

#### 7.1.4 Form

All proposal packages must be in hard copy. Someone authorized to execute legal documents on behalf of the firm must sign the original transmittal document. For copying accuracy, indicate in the transmittal letter the number of pages being submitted in the document.

#### 7.1.5 Delivery Address

ALL MAILED PROPOSALS SHALL BE ADDRESSED AS FOLLOWS:

Mr. Tony McDowell, Budget Manager  
City of Asheville  
Administrative Services, Budget Division



P.O. Box 7148  
Asheville, NC 28802

The envelope shall also have stated thereon the name and address of the submitting firm. **Postmarks will not be accepted.**  
**HAND DELIVERED, COURIER OR PACKAGE DELIVERY**  
**SERVICE SHALL BE DELIVERED DIRECTLY TO:**

Mr. Tony McDowell, Budget Manager  
City of Asheville  
Administrative Services, Budget Division  
70 Court Street  
4<sup>th</sup> Floor  
Asheville, NC 28801

#### 7.1.6 Deadline

All proposal packages shall be received in the Administrative Services, Budget Division – 4th Floor, at the address indicated in Item 7.1.5 no later than, **4:00 pm (EST) on October 29, 2010.**

**PROPOSALS WILL NOT BE ACCEPTED THEREAFTER:** All proposals received after said date and time will be returned unopened to the submitter.

**FAXED PROPOSALS WILL NOT BE CONSIDERED.**

**POSTMARKS WILL NOT BE ACCEPTED.**

**Please note that the responses become property of the City of Asheville and a matter of public record.**

#### 7.2 RFP Revisions

The City reserves the right to revise this RFP after it has been issued but prior to the required response date. In the event of a revision, an addendum will be sent to all parties known to have received a copy of the original RFP.

#### 7.3 Evaluation Process

The evaluation of the proposals and the construction of a recommendation of how to proceed with any contract award will be carried out by an evaluation team composed of City staff and may involve further discussions with the proposers to clarify items contained within the written proposal.

The City of Asheville has adopted a Minority Business Plan to encourage participation by women and minority businesses in the award of contracts.

Bidders are hereby notified that this RFP is subject to the provisions of the Plan. Questions regarding the Minority Business Plan may be directed to:

James Lee, Coordinator of the Minority Business Program,  
City of Asheville,  
PO Box 7148,  
Asheville, NC 28802  
or by phone (828) 232-4566 or by e-mail at  
minoritybusiness@ashevilenc.gov

Two sources for certified minority firms can be accessed at:  
[www.ips.state.nc.us/ips/vendor/searchvendor.aspx](http://www.ips.state.nc.us/ips/vendor/searchvendor.aspx) or  
[www.doa.state.nc.us/hub](http://www.doa.state.nc.us/hub)  
to search for vendors.

It is the policy of the City to (1) provide minorities equal opportunity to participate in all aspects of its contracting and procurement program and (2) to prohibit any and all discrimination against persons or businesses in pursuit of these opportunities.

The responsibilities of the RFP evaluation committee include:

1. Reviewing and evaluating all proposals received by the response due date and time for completeness and conformance to the proposal specifications contained within this RFP and eliminating those proposals which are found to be non-responsive to the formal RFP requirements;
2. Conducting a formal evaluation of each responsive proposal and ranking the proposals in order of merit and benefit to the City using the criteria contained within this RFP as benchmarks;
3. Conducting any meetings or discussions with the proposers for the purpose of clarification, if needed;
4. Meeting to evaluate, discuss, and reach consensus with regard to final ranking of proposals for contract award; and,
5. Issuing a recommendation regarding an award of contract(s).

The final approval of any contract award recommendation will necessitate review and approval by the City Manager and the City Council.

#### 7.4 Evaluation Criteria

The evaluation criteria to be used for comparing and ranking proposals submitted under this RFP are as follows:

1. Compliance with RFP specifications.
2. Project methodology and work plan.
3. Thoroughness and understanding of the tasks to be completed.
4. Qualifications and experience of the firm and assigned personnel.
5. Recent municipal experience conducting similar studies.
6. Total price or cost to the City
7. References
8. Size, location, and stability of proposing firm

Cost will not be the sole factor for this award.

#### 7.5 Qualification

The City reserves the right to proceed with any subsequent procurement contract award to any firm based upon responses to this Request for Proposal and exclude those firms that are deemed not qualified.

#### 7.6 Questions

If additional information is needed to interpret this RFP, please submit written questions to:

Tony McDowell, Budget Manager  
tmcdowell@ashevillenc.gov.

Answers to all questions will be sent via e-mail to every firm who received the RFP.

#### 7.7 Discussions and Right to Reject Proposals

##### 7.7.1 Discussions

The City of Asheville may award a contract on the basis of proposals submitted, without discussions, or may negotiate further with those firms within a competitive range. Proposals should be submitted on the most favorable terms the firm can provide.

##### 7.7.2 Right to Reject Proposals

The City of Asheville reserves the right to reject any or all proposals.

## **8.0 Incurring Costs**

The City of Asheville is not liable for any costs incurred by firms in responding to this RFP.

## **9.0 Disposition of Proposals and Ownership of Data**

### **9.1 Disposition of Proposals**

All proposals submitted in response to this RFP shall become the property of the City and a matter of public record. The firm must identify all copyrighted material, trade secrets or other proprietary information that they claim are exempt from disclosure under the Public Records North Carolina Chapter 132. In the event such an exemption is claimed, the firm shall state in the proposal that they will defend any action taken against the City to release such exempt material.

### **9.2 Ownership of Data**

Upon completion of all work under this contract, ownership and title of all plans, reports and documents produced as part of this contract will automatically be vested in the City of Asheville.

## **10.0 Signatures and Declarations**

Each proposal must be signed on behalf of the firm by an officer authorized to bind the proposal.

The successful bidder is required to provide evidence of Professional Liability insurance, and will indemnify and hold the City harmless.

All vendors doing business with the city must have a business privilege license. Please include a copy of your license with the bid. If you do not have one, download the form at [www.ashevillenc.gov](http://www.ashevillenc.gov) under "Doing Business with the City" and submit it to the Customer Services Division on the First Floor of City Hall at 70 Court Plaza, Asheville, NC 28801, (828) 251-1122. Please include a copy of your application with the bid.

**EXHIBIT A**  
**SAMPLE CITY'S CONTRACT FOR CONSULTANT SERVICES**

STATE OF NORTH CAROLINA

SERVICE CONTRACT  
NUMBER \_\_\_\_\_

COUNTY OF BUNCOMBE

THIS SERVICES CONTRACT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between the City of Asheville, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter referred to as "City"), and \_\_\_\_\_ (state of incorporation or type of organization) hereinafter referred to as ("CONTRACTOR").

W I T N E S S E T H :

Upon the terms and conditions hereinafter set forth, the City has requested and CONTRACTOR has agreed to furnish the City with services as set forth in this contract. The City and CONTRACTOR agree as follows:

A. TERMS AND CONDITIONS:

1. CONTRACTOR shall provide (**DESCRIBE SERVICE**) as set forth in Exhibit A.
2. The term of this contract shall be from \_\_\_\_\_.
3. The City will compensate the CONTRACTOR a maximum amount of \$\_\_\_\_\_. The CONTRACTOR shall bill the City on a monthly basis. The CONTRACTOR shall bill the City \$\_\_\_\_\_ per hour. If the contract exceeds the aforementioned threshold, the City must amend or renew the contract in accordance with all applicable City policies.
4. The CONTRACTOR shall provide a timekeeping record of all hours worked and description of the duties performed during the hours worked. All timesheets shall be submitted to the \_\_\_\_\_ or his or her designee for review and payment of services. These time sheets shall be submitted on a monthly basis. The City shall pay all invoices within thirty (30) days of submittal.
5. Any employees furnished by CONTRACTOR, pursuant to this contract, will be employees of CONTRACTOR, an independent contractor. CONTRACTOR will maintain complete control over the employees' conduct and will disburse all payrolls, taxes, license, insurances, uniforms and all other expenses incurred by CONTRACTOR in performing the terms of this contract.
6. INSURANCE. The work performed under this Agreement has been classified as a \_\_\_\_\_ risk profile. The Contractor agrees to keep and maintain for the duration of this Agreement including but not limited to commercial general liability, automobile liability, workers compensation, employers liability, environmental liability and umbrella coverage in the amounts shown on the City of Asheville Minimum Insurance Coverage and Requirements Matrix in effect as of the date of this Agreement incorporated herein to this Agreement and available to the Contractor upon request. The Contractor shall furnish the City with certificates of insurance for each type of insurance described herein, with the City named as an additional insured on all coverages, except worker's compensation. In the event of cancellation, substantial changes or nonrenewal, the Contractor and insurance carrier shall give the City at least thirty (30) days prior written notice. No work shall be performed by Contractor until Contractor has furnished to the City the above referenced certificates of insurance, in a form suitable to the City. In the event the Certificate of Liability Insurance includes a disclaimer, Contractor shall cause his Insurer to issue a Form CG20 10, or other Additional Insured Amendatory Endorsement showing City of Asheville as Additional Insured.
7. CONTRACTOR shall indemnify, defend and hold harmless the City and its subsidiaries, divisions, officers, directors and employees from all liability, loss, costs, claims, damages,

expenses, attorney fees, judgments and awards arising or claimed to have arisen, from any injury caused by, or allegedly caused by, either in whole or in part, any act or omission of the CONTRACTOR or any employee, agent or assign of the CONTRACTOR. This provision is not applicable to any claim arising out of or related to any active or primary negligence of or by City, its officers or employees.

8. Nothing herein shall be construed as a waiver on the part of the City to any defense of any claim, including, but not limited to the defense of governmental immunity.
  9. The CONTRACTOR shall be properly licensed and skilled in his/her respective trade.
  10. CONTRACTOR shall comply with all state, federal or local laws, or ordinances, codes, rules or regulations governing performance of this Agreement, including but not limited to, equal opportunity employment laws, O.S.H.A., minimum wage and hour regulation, North Carolina State Building Code regulations and immigration laws.
  11. Contractor shall maintain all fiscal records relating to this Agreement in accordance with Generally Accepted Accounting Principles, and shall maintain any other records pertinent to this Agreement in a manner so as to clearly document Contractor's performance. The City shall have a right to access the fiscal and other records of Contractor that are pertinent to this Agreement to perform examinations and audits. Contractor shall retain and keep accessible all the fiscal and other records for a minimum of three (3) years following final payment and termination of this Agreement, or until the conclusion of any audit or controversy related to this Agreement, whichever is later.
- B. TERMINATION AND MODIFICATION: This contract may be terminated by either party, with thirty (30) days prior written notice. Notice shall be served under this contract by registered mail, certified mail or by other means.
- C. ENTIRE AGREEMENT: This agreement contains the entire agreement between the parties.
- D. SEVERABILITY: Should any provision or provisions contained in this agreement be declared by a court of competent jurisdiction to be void, unenforceable or illegal, such provision or provisions shall be severable and the remaining provisions hereof shall remain in full force and effect.
- E. GOVERNING LAW: This contract is entered into in North Carolina and shall be construed under the statutes and laws of North Carolina.
- F. ASSIGNABILITY: This contract is not assignable by either party without the prior written consent of the other party.
- G. REQUIREMENT OF CITY CONTRACTS:
1. CONTRACTOR shall comply with the provisions of the Americans with Disabilities Act and all rules and regulations promulgated thereunder. CONTRACTOR hereby agrees to indemnify the City from and against all claims, suits, damages, costs, losses and expenses in any manner arising out of or connected with the failure of CONTRACTOR, its subcontractors, agents, successors, assigns, officers or employees to comply with the provisions of the ADA or the rules and regulations promulgated thereunder.
  2. CONTRACTOR will comply with the City's Drug Free Workplace policy.
  3. Minority Business Plan

The City of Asheville has adopted a Minority Business Plan to encourage participation by women and minority businesses in the award of contracts. Bidders are hereby notified that this bid is subject to the provisions of that Plan. Questions regarding the Minority Business Plan may be directed to, Coordinator for the Minority Business Program, City of Asheville, Post Office Box 7148, Asheville, NC 28802-7148 or by phone at (828) 232-4566 or by e-mail at [minoritybusiness@ashevillenc.gov](mailto:minoritybusiness@ashevillenc.gov). *You can access two sources for certified minority firms at [www.ips.state.nc.us/ips/vendor/searchvendor.aspx?t=h](http://www.ips.state.nc.us/ips/vendor/searchvendor.aspx?t=h) and [www.doa.state.nc.us/hub](http://www.doa.state.nc.us/hub) to search for vendors.* It is the policy of the City to (1) provide minorities an equal opportunity to participate in all aspects of its contracting and procurement programs and (2) to prohibit any and all discrimination against persons or businesses in pursuit of these opportunities.

3. Notwithstanding any other provisions of this Agreement, if the City does not receive said funding for this Agreement from the City Council for any fiscal year applicable to this Agreement, then the City shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days' written notice documenting the lack of funding.

# EXHIBIT - B

## GENERAL TERMS AND CONDITIONS-SERVICE CONTRACT-

1. **SCOPE OF WORK:** CONTRACTOR shall provide the service as set forth in Exhibit A. If there are any terms in Exhibit A that conflict with the terms in Exhibit B, the terms in Exhibit B take precedent and shall control.

2. **TERM:** The term of this contract shall be until the project is completed or as set forth in Exhibit A.

3. **COMPENSATION:** The City will compensate the CONTRACTOR as set forth in Department Director's Contract Approval Form. If the contract exceeds the aforementioned threshold, the City must amend or renew the contract in accordance with all applicable City policies.

4. **TIME KEEPING:** If applicable, the CONTRACTOR shall provide a timekeeping record of all hours worked and description of the duties performed during the hours worked. All timesheets shall be submitted to the Department Director or his or her designee for review and payment of services. These time sheets shall be submitted on a monthly basis. The City shall pay all invoices within thirty (30) days of submittal.

5. **EMPLOYEES OF CONTRACTOR:** Any employees furnished by CONTRACTOR, pursuant to this contract, will be employees of CONTRACTOR, an independent contractor. CONTRACTOR will maintain complete control over the employees' conduct and will disburse all payrolls, taxes, license, insurances, uniforms and all other expenses incurred by CONTRACTOR in performing the terms of this contract.

6. **INSURANCE:** The work performed under this Agreement has been classified as a \_\_\_\_\_ risk profile. The Contractor agrees to keep and maintain for the duration of this Agreement including but not limited to commercial general liability, automobile liability, workers compensation, employers liability, environmental liability and umbrella coverage in the amounts shown on the City of Asheville Minimum Insurance Coverage and Requirements Matrix in effect as of the date of this Agreement incorporated herein to this Agreement and available to the Contractor upon request. The Contractor shall furnish the City with certificates of insurance for each type of insurance described herein, with the City named as an additional insured on all coverages, except worker's compensation. In the event of cancellation, substantial changes or nonrenewal, the Contractor and insurance carrier shall give the City at least thirty (30) days prior written notice. No work shall be performed by Contractor until Contractor has furnished to the City the above referenced certificates of insurance, in a form suitable to the City. In the event the Certificate of Liability Insurance includes a disclaimer, Contractor shall cause his Insurer to issue a Form CG20 10, or other Additional Insured Amendatory Endorsement showing City of Asheville as Additional Insured.

7. **HOLD HARMLESS / INDEMNITY:** CONTRACTOR shall indemnify, defend and hold harmless the City and its subsidiaries, divisions, officers, directors and employees from all liability, loss, costs, claims, damages, expenses, attorney fees, judgments and awards arising or claimed to have arisen, from any injury caused by, or allegedly caused by, either in whole or in part, any act or omission of the CONTRACTOR or any employee, agent or assign of the CONTRACTOR. This provision is not applicable to any claim arising out of or related to any active or primary negligence of or by City, its officers or employees. The Contractor shall comply with the provisions of the Americans with Disabilities Act and all rules and regulations promulgated thereunder. The Contractor hereby agrees to indemnify the City from and against all claims, suits, damages, costs, losses and expenses in any manner arising out of or connected with the failure of the Contractor, its subcontractors, agents, successors, assigns, officers or employees to comply with provisions of the ADA or the rules and regulations promulgated thereunder. **Nothing herein shall be construed as a waiver on the part of the City to any defense of any claim, including, but not limited to the defense of governmental immunity.**

8. **SKILL OF CONTRACTOR:** The CONTRACTOR shall be properly licensed and skilled in his/her respective trade.

9. **COMPLIANCE WITH OTHER LAWS:** CONTRACTOR shall comply with all state, federal or local laws, or ordinances, codes, rules or regulations governing performance of this Agreement, including but not limited to, equal opportunity employment laws, O.S.H.A., minimum wage and hour regulation, North Carolina State Building Code regulations and immigration laws.

10. **TERMINATION:** This contract may be terminated by either party, with thirty (30) days prior written notice. Notice shall be served under this contract by registered mail, certified mail or by other means.

11. **GENERAL CONDITIONS:** (a) This agreement contains the entire agreement between the parties. (b) Should any provision or provisions contained in this agreement be declared by a court of competent jurisdiction to be void, unenforceable or illegal, such provision or provisions shall be severable and the remaining provisions hereof shall remain in full force and effect. (c) This contract is entered into in North Carolina and shall be construed under the statutes and laws of North Carolina. (d) This contract is not assignable by either party without the prior written consent of the other party. (e) The contractor shall provide a drug-free workplace, as set forth in the Drug Free Workplace Policy. Said policy is available upon request.

#### 12. Minority Business Plan:

The City of Asheville has adopted a Minority Business Plan to encourage participation by women and minority businesses in the award of contracts. Bidders are hereby notified that this bid is subject to the provisions of that Plan. Questions regarding the Minority Business Plan may be directed to, Coordinator for the Minority Business Program, City of Asheville, Post Office Box 7148, Asheville, NC 28802-7148 or by phone at (828) 232-4566 or by e-mail at [minoritybusiness@ashevillenc.gov](mailto:minoritybusiness@ashevillenc.gov). You can access two sources for certified minority firms at [www.ips.state.nc.us/ips/vendor/searchvendor.aspx?t=h](http://www.ips.state.nc.us/ips/vendor/searchvendor.aspx?t=h) and [www.doa.state.nc.us/hub](http://www.doa.state.nc.us/hub) to search for vendors. It is the policy of the City to (1) provide minorities an equal opportunity to participate in all aspects of its contracting and procurement programs and (2) prohibit any and all discrimination against persons or businesses in pursuit of these opportunities.

13. **RENEWAL:** The City may elect to renew this Agreement for additional twelve (12) month periods. In order to elect renewal, the City shall provide the Contractor with sixty (60) days written notice prior to the end of the current term of this Agreement. Upon receipt of this notice, the Contractor shall provide ten (10) days written notice to the City regarding whether or not it agrees to renew the Agreement and for what amount. The parties acknowledge that approval by the City Council may be required, based upon the amount to be paid for performance of the Agreement.

14. **RIGHT TO AUDIT:** Contractor shall maintain all fiscal records relating to this Agreement in accordance with Generally Accepted Accounting Principles, and shall maintain any other records pertinent to this Agreement in a manner so as to clearly document Contractor's performance. The City shall have a right to access the fiscal and other records of Contractor that are pertinent to this Agreement to perform examinations and audits. Contractor shall retain and keep accessible all the fiscal and other records for a minimum of three (3) years following final payment and termination of this Agreement, or until the conclusion of any audit or controversy related to this Agreement, whichever is later.

15. **NON APPROPRIATIONS:** Notwithstanding any other provisions of this Agreement, if the City does not receive said funding for this Agreement from the City Council for any fiscal year applicable to this Agreement, then the City shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days' written notice documenting the lack of funding.